

1. SUPPLEMENTAL TERMS AND CONDITIONS: Quotations including supplemental terms and conditions will be accepted, but supplemental conditions that conflict with those contained in the RFQ or that diminish the State's rights under any contract resulting from this RFQ will be considered null and void. The State is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award. After award of the contract (1) if conflict arises between a supplemental term or condition included in the quote and a term or condition of the RFQ, the term or condition of the RFQ will prevail; and (2) if the State's rights are diminished as a result of application of a supplemental term or condition included in the quote, the supplemental term or condition will be considered null and void.

2. COMPATIBILITY: Contractors will be required to assist the State in determining the compatibility of their devices with other contracted devices. At the State's request, contractors will be required to demonstrate their equipment's claimed compatibility. Compatibility of offered devices will not be a criterion for award of this RFQ. However, it will be a factor in the hardware selection process from subsequent contracts resulting from this RFQ. Successful offerors/contractors are required, on request by the State, to provide all published data pertinent to the offered devices' compatibility with other peripheral devices.

3. INTENDED USE: Except to the extent the State relies on representations made by the vendor, the State of Alaska agrees, with respect to the machines and programming, to accept responsibility for (1) their selection to achieve the State's intended results, (2) their use, and (3) the results obtained therefrom.

4. ASSOCIATED COSTS: Prices quoted must include all costs associated with shipping, packing and delivery to the specified FOB point, as well as any costs necessary to provide guarantee/warranty service, operating manual, and operating software and documentation specified in the RFQ.

5. PATENTS AND COPYRIGHTS: A vendor will, at its expense, defend the State against any claim that any machines or programming supplied hereunder infringe a patent or copyright in the United States or Puerto Rico, and will pay all costs, damages and attorney's fees that a court finally awards as a result of such claim. To qualify for such defense and payment, the State must: (1) give the vendor prompt written notice of any such claim; and (2) allow the vendor to control, and fully cooperate with the vendor in, the defense and all related settlement negotiations. The vendor's obligation under this section is conditioned on the State's agreement that if the operation of the machines or programming becomes, or in the vendor's opinion are likely to become, the subject of such a claim, the State will permit the vendor, at its option and expense, either to procure the right for the State to continue using the machines or programming, or to replace or modify them so that they are non-infringing but still meet the State's needs as originally contracted. The vendor shall have no obligation with respect to any such claim based upon the State's modification of the machine or programming or their combination, operation or use with apparatus, data or programs not furnished by the vendor. This section states the vendor's entire obligation to the State regarding infringement.

6. RISK OF LOSS OR DAMAGE: During the period on-order machines are in transit or in possession of the State, up to, and including the date of installation, as specified by the RFQ, or up to, and including the date of acceptance as specified by the State (pursuant to an Acceptance Test) if applicable, contractor and its insurers, if any, relieve the State of responsibility for all risk of loss of, or damage to, the machines except for loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination for which the State is legally liable. Thereafter, all risk of loss of, or damage to, such machines shall be on the State, except as described in, "WARRANTIES" below.

7. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY: Contractor shall be liable for damages arising out of injury to persons and/or damage to the real or tangible personal property before or after acceptance, delivery, installation and use of the equipment either at the contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the contractor or defect of the equipment. Contractor shall not be liable for damages arising out of, or caused by, alterations to the equipment (other than alterations performed or caused by contractor's officers, employees or agents); attachments made by the State; damages to said alterations or attachments that may result from the normal operation and maintenance of contractor's equipment, or for losses occasioned by the State's fault or negligence. Nothing in this contract shall limit the contractor's direct liability, if any, to third parties and employees of the State for any remedy which may exist under law in the event a defect in the manufacture of the equipment, or the negligent acts or omissions of contractor, its officers, employees, or agents, is the cause of injury to such person.

8. LIMITATION OF REMEDIES: Contractor's liability for damages to the State for any cause whatsoever, including causes of action under "INSTRUCTION TO BIDDERS, TERMS AND CONDITIONS", "INDEMNIFICATION", shall be limited to the greater of \$100,000 or the purchase price of the specified equipment which caused the damage or that is the subject matter of, or is directly related to, the cause of action. The forgoing limitation of liability will not apply to the payment of costs, damages, and attorney's fees referred to in the section, "PATENTS AND COPYRIGHT PROTECTION" above, or to claims for personal injury or damage to real property or tangible personal property caused by the contractor's negligence or defect of equipment. Contractors will not be liable to the State for any lost profits, lost savings or incidental damages or other consequential damages sustained by the State, except as provided in AS 45.02.719.

9. WARRANTIES: Contractor warrants that the equipment, when installed, will be in good working order and will conform to the contractor's official published specifications and the technical specifications of the RFQ. Manufacturer's standard warranty provisions for the purchased equipment to the extent that they are not inconsistent with the terms of these Contractual Provisions, shall apply beginning on the date of installation. Maintenance charges, if applicable, shall not begin until the date of expiration of the warranty period. The use of the equipment will be under the State's exclusive management and control. The State agrees that the contractor will not be liable for any damages caused by the State's failure to fulfill State responsibilities or by the State's negligence.

10. SECURITY INTEREST: Contractor reserves a purchase money security interest in each machine. This interest will be satisfied by payment in full hereunder. In addition, when applicable, the security interest will be satisfied by the return to contractor by the State, of parts in respect to feature additions or model conversions that involve the removal of parts which become the property of contractor. The State agrees to sign appropriate documents to permit contractor to perfect the contractor's purchase money security interest.

11. GENERAL: The State certifies that it is purchasing this equipment for its own use and not for remarketing, and will not assign the on-order equipment to any party other than the contractor or contractor's affiliate without written consent of the contractor, which shall not be unreasonably withheld. The State reserves the right to sign any agreement which is deemed to be beneficial to the State. The State's RFQ, the contractor's response, and the resulting contract will be the complete and exclusive statement of the agreement between the parties, superseding all proposals or prior agreements, oral or written, and all other communication between the parties relating to the subject matter hereof.